

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PHILLANDER PHILIPPEAUX; EWUNI.COM,

Plaintiffs,

-against-

UNITED STATES OF AMERICA,

Defendants.

19-CV-3221 (CM)

ORDER OF DISMISSAL

COLLEEN McMAHON, Chief United States District Judge:

Plaintiff, who is incarcerated at FCC Coleman, brings this civil action challenging his criminal proceedings in *United States v. Philippeaux*, No. 13-CR-0277-2 (RWS) (S.D.N.Y. Feb. 2, 2016), in which he was convicted. By order dated May 13, 2019, the Court dismissed the complaint and granted Plaintiff 30 days' leave to replead to assert any facts in support of his conspiracy claim against Drug and Enforcement Agency (DEA) agents. Plaintiff filed an amended complaint on June 11, 2019, and the Court has reviewed it. Because the amended complaint fails to state a claim showing that Plaintiff is entitled to relief, the Court dismisses the amended complaint.

**DISCUSSION**

The amended complaint consists primarily of references to 42 U.S.C. § 1983, municipal liability, and case law on a variety of topics, including conspiracy. Also, for reasons unclear and never explained, Plaintiff adds "Ewuni.com" as a Plaintiff.

In addition to Plaintiff's reference to various federal statutes and case law, he also attaches several documents, some of which relate to DEA agent Sean Wulff, who presumably investigated Plaintiff and then testified at Plaintiff's grand jury proceeding. Those documents include: (1) a 2014 printout, which had been provided to Wulff, of Plaintiff's criminal history

from the National Crime Information Center; (2) an email sent from Wulff to other DEA agents and an Assistant United States Attorney, indicating that “[t]wo of our CS’s [confidential sources] spoke with Philippeaux and Gonzalez during the first load they orchestrated. The calls were made from our office and we recorded the calls”; and (3) an excerpt from Wulff’s grand jury testimony. (*Id.* at 14-16, 24.)

These documents do not support Plaintiff’s contention that any DEA agent conspired with anyone to deprive him of any right, or otherwise violated his rights. The Court therefore dismisses the amended complaint for failure to state a claim.

### CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket.

The Court dismisses the amended complaint under 28 U.S.C. § 1915(e)(2)(B)(ii).

The Court also denies as moot Defendant’s motion to dismiss Plaintiff’s amended complaint (ECF No. 14).

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to docket this as a “written opinion” within the meaning of Section 205(a)(5) of the E-Government Act of 2002.

SO ORDERED.

Dated: July 8, 2019  
New York, New York

  
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COLLEEN McMAHON  
Chief United States District Judge